

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

CIVIL ACTION NO. 04-11492-REK

MARIO LACY,
Plaintiff.

v.

WILLIAM J. FEENEY, JR.,
KENNETH HEARNS, JEAN
MOSES ACLOQUE and THE CITY
OF BOSTON,
Defendants.

**DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION IN LIMINE
REGARDING HIS CRIMINAL RECORD**

Now come the Defendants, William J. Feeney, Jr, Kenneth Hearn and Jean Moses Acloque and hereby oppose the Plaintiff's Motion in Limine Regarding his Criminal Record.

Prior convictions are admissible to impeach the credibility of a witness. See Fed.R.Evid. 609 and M.G.L. c. 233, §21. Plaintiff has numerous convictions. One of the relevant convictions involves Plaintiff and his association with the drug control unit officers, including the Defendants. On June 28, 2001, approximately two weeks prior to this incident, Plaintiff was arrested by members of the drug control unit. Plaintiff was arrested for assault and battery on a police officer (M.G.L. c. 265 §13D) and possession of a class A substance (M.G.L. c. 94C, §34). Both of these charges are felonies. In all of the convictions Defendants intend to use, Plaintiff was (i) represented by counsel when he either pleaded guilty or was found guilty of the charges and (ii) received sentences

which were probation with suspended sentences.¹ This establishes that the criminal record meets the standard outlined in Fed.R.Evid. 609.

Plaintiff alleges that the probative value of these criminal convictions is outweighed by its prejudicial effect. Evidence of Plaintiff's criminal history will arise because of Plaintiff's interaction with the officers from the drug control unit. The charges and subsequent convictions on the charges of assault and battery and possession of a class A substance are especially relevant with regards to the Defendants observations and actions with regards to the Plaintiff on July 14, 2001.

For the foregoing reasons, the Defendants request that this Honorable Court deny Plaintiff's Motion in Limine Regarding His Criminal Record.

Respectfully submitted,

DEFENDANTS, WILLIAM J FEENEY, JR.,
KENNETH HEARNS, JEAN MOSES
ACLOQUE and THE CITY OF BOSTON,

By their attorneys:

/s/ Karen A. Glasgow

Karen A. Glasgow, BBO # 648688
James M. Chernetsky, BBO # 638152
Assistant Corporation Counsel
City of Boston Law Department
Room 615, City Hall
Boston, MA 02201
(617) 635-3238

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